UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,631	11/12/2003	Hideo Suzuki	393032019712	2132

25224   7590   07/22/2008
MORRISON & FOERSTER, LLP
555 WEST FIFTH STREET
SUITE 3500
LOS ANGELES, CA 90013-1024

EXAMINER
ZHOU, TING

ART UNIT	PAPER NUMBER
2173	

MAIL DATE	DELIVERY MODE
07/22/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _04 June 2008_.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _8,17,23 and 26-29_ is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) _8,17,23 and 26-29_ is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☒ All   b)☐ Some * c)☐ None of:
        1.☒ Certified copies of the priority documents have been received.
        2.☐ Certified copies of the priority documents have been received in Application No. _____.
        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _05/16/08_.
4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____ .

DETAILED ACTION

1.   The Request for Continued Examination (RCE) filed on 04 June 2008 under 37 CFR

1.53(d) based on parent Application No. 10/712,631 is acceptable and a RCE has been

established. An action on the RCE follows.

2.   The amendments filed on 04 June 2008, submitted with the filing of the RCE have been

received and entered. Claims 8, 17, 23 and 26-29 as amended are pending in the application.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or
> described as set forth in section 102 of this title, if the differences between the subject
> matter sought to be patented and the prior art are such that the subject matter as a whole
> would have been obvious at the time the invention was made to a person having ordinary
> skill in the art to which said subject matter pertains. Patentability shall not be negatived
> by the manner in which the invention was made.

3.   Claims 8, 17, 23 and 26-29 are rejected under 35 U.S.C. 103(a) as being unpatentable

over "Emagic Notator Logic Sequencing Software (Macintosh)" by Jim Aikin (hereinafter

"Aikin"), Blumenau U.S. Patent 5,664,216 and Mandt U.S. Patent 6,621,532.

Referring to claims 8, 17 and 23, Aikin teaches a method, apparatus and computer

readable medium encoded with a computer program to perform controlling the computer system

to display at least one layer on a screen of the display (sequencing software with several layers)

(Aikin: pages 12—124, 127-128 and Figures 2-3); attaching an execution icon corresponding to

execution-related data onto the layer, wherein the execution-related data constructs a part of

performance data (icons corresponding to the musical performance can be attached to each layer)

(Aikin: pages 12—124, 127-128 and Figures 2-3), wherein the attached execution icon

represents execution-related data for adding a predetermined type of articulation to a musical

tone to be generated based on performance data, and wherein the step of attaching the execution

icon causes the corresponding execution-related data to be incorporated into the performance

data being edited (Aikin: pages 12—124, 127-128 and Figures 2-3). In these cited sections,

Aikin describes how a user selects execution icons corresponding to execution-related data

representing articulation used in music performance, i.e. pipe organ icon representing how the

pipe organ, a musical instrument, performs from a palette of icons and places them on a layer,

causing the corresponding data to be incorporated into the performance data being edited. For

example, a user may select a pipes organ icon, which corresponds to how the performance is to

be executed, and is therefore an execution icon. The musical notes are also execution icons

pertaining to how music is to be played/executed. Aikin further teaches allowing the execution

icon of the layer to move in response to an operation of a user of the computer system (notes and

tools can be moved around on the sequences and tracks) (Aikin: page 123-124). Although Aikin

teaches icons for adding a predetermined type of articulation, Aikin fails to explicitly teach that

the predetermined type of articulation causes the musical tone to be generated in accordance with

a specific performance technique. Blumenau teaches a graphical user interfaces that uses icons

to transform audio data (Blumenau: column 2, lines 22-34) similar to that of Aikin. In addition,

Blumenau further teaches adding a predetermined type of articulation to a musical tone to be

generated, the predetermined type of articulation causes the musical tone to be generated in

accordance with a specific performance technique (icons are placed on the screen to transform a

musical tone, i.e. audio data; for example, icons can represent filter icons that affect audio

performance techniques/process, i.e. the technique of bending audio data) (Blumenau: column 2,

lines 22-57, column 5, lines 18-20 and column 8, lines 8-35). It would have been obvious to one

of ordinary skill in the art, having the teachings of Aikin and Blumenau before him at the time

the invention was made, to modify the attachment of an execution icon to a layer for generating a

musical tone of Aikin to include the placement of icons for evoking specific performance

techniques of the musical tone, as taught by Blumenau. One would have been motivated to make

such a combination in order to provide a graphical environment that allows editing of audio data

in a much more intuitive manner (Blumenau: column 2, lines 15-20 and 58-62). However, Aikin

and Blumenau fail to explicitly teach detecting an event in which the execution icon is moved

outside of a prescribed display area, and upon detection of the event, deleting the execution icon

and the execution-related data corresponding to the execution icon from the performance data.

Mandt teaches a graphical user interface for allowing users to select icons to be placed into an

area (creating toolbar icons/buttons in response to user's drag/drop input) (Mandt: column 3,

lines 21-29) similar to that of Aikin and Blumenau. In addition, Mandt further teaches allowing

the execution icon of the layer to move in response to an operation of a user of the computer

system (icons on the toolbar can be dragged around the toolbar) (Mandt: column 8, lines 8-17);

detecting an event in which the execution icon is moved outside of a prescribed display area

(dragging an icon from the toolbar out of the toolbar area) (Mandt: column 8, lines 8-17), and

upon detection of the event, deleting the execution icon and execution-related data corresponding to the execution icon from the performance data (when the icon from the toolbar is moved out the toolbar area, the icon is removed, thereby removing the icon itself and any related data, i.e. icon name, function, etc.) (Mandt: column 8, lines 8-17). It would have been obvious to one of ordinary skill in the art, having the teachings of Aikin, Blumenau and Mandt before him at the time the invention was made, to modify the graphical user interface for editing performance data using the attachment of icons to layers of Aikin and Blumenau to include the removal of icons and corresponding information from the layer when the icon is moved outside of a prescribed area, as taught by Mandt. One would have been motivated to make such a combination in order to allow users to create, remove and manipulate icons on the screen with maximum efficiency and minimum complexity (Mandt: column 1, lines 8-13 and column 3, lines 19-24).

Referring to claim 26, Aikin, as modified, teach wherein one or plural execution icons are arranged in the layer in a direction from the left to the right on the display screen in accordance with progress of the performance data (as shown from Figure 2 of Aikin, the musical notes are displayed from left to right to show a progression of the music).

Referring to claim 27, Aikin, as modified, teach wherein the layer is displayed as an execution icon layer corresponding to the execution-related data (the instrument icons corresponding to how the music is going to be played, are displayed in a layer, i.e. the instruments are displayed in its own window/menu) (Aikin: page 123).

Referring to claim 28, Aikin, as modified, teach wherein the execution icon layer contains at least one of a tempo icon layer, a dynamics icon layer, a joint icon layer, a

modulation icon layer, an accent icon layer, an attack icon layer, and a release icon layer (as

shown in Figure 3, the displayed layers include a "Modulation" layer) (Aikin: page 123).

Referring to claim 29, Aikin, as modified, teach wherein when the execution icon

attached to the layer is edited, edited content is reflected onto the performance data (icons can be

edited, such as moving the icon out of the toolbar area, thereby causing the data to reflect such an

edit, i.e. the icon is removed, thereby removing the icon itself and any related data, i.e. icon

name, function, etc.) (Mandt: column 8, lines 8-17).

Response to Arguments

4.   Applicant's amendment to the Abstract filed on 06/04/08 have been received and

considered; the amendments overcome the objection to the Abstract made in the previous final

office action dated 02/05/08; the previous objection is now withdrawn.

5.   Applicant's arguments with respect to claims 8, 17, 23 and 26-29 have been considered

but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to TING ZHOU whose telephone number is (571)272-4058. The

examiner can normally be reached on Monday - Friday 9:00am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Dennis Chow can be reached on (571) 272-7767. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TZ
/Ting Zhou/
Primary Examiner, Art Unit 2173